

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2107.04
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	March 23, 2004
DATE OF REPORT:	May 13, 2004
REQUEST FOR RECONSIDERATION:	na
DATE OF CLOSURE:	June 2, 2004

COMPLAINT ISSUES:

Whether the Plainfield Juvenile Correctional Facility and the Indiana Department of Correction violated:

511 IAC 7-18-3 by failing to provide a free appropriate public education (FAPE) to students at the Plainfield Juvenile Correctional Facility (PJCF), specifically, failing to develop individualized goals and objectives for students and instead, writing the same goals and benchmarks for students within an exceptionality area.¹

511 IAC 7-23-1 by allowing a secretary at one Department of Correction (DOC) facility to access personally identifiable information contained in the educational records of students at other DOC facilities without parental consent.

On April 22, 2004, the Director of the Division of Exceptional Learners granted an extension of time until May 13, 2004, due to the complexity of the issues and the necessity of the investigator to conduct an on-site review.

FINDINGS OF FACT:

1. Students at PJCF who attend the junior/senior high school are between the ages of 14 and 17 with small numbers at the extremes of the mandated age range. The student population of the facility is limited by law to 336 students. At the time this complaint was investigated, there were a total of 179 special education students.
2. The educational records of 28 students, specifically, the case conference committee (CCC) report and relevant parts of each student's individualized education program (IEP), were reviewed during an on-site visit to PJCF on April 29, 2004. Seven of the records reviewed were of students with an emotional disability, seven of students with a learning disability, seven with a mild mental handicap, and seven of students eligible as other health impaired.
3. Based on interviews with staff and as indicated in the PJCF Special Education Procedures Manual, the school psychologist and special education coordinator review information gathered from an in-coming student's educational records and his present levels of performance. At this point, educational and social deficits that need to be addressed at the initial CCC meeting are identified. Also, during the orientation process (before the CCC is convened), students are asked to complete vocational interest and learning style inventories and are asked to take the Test of Adult Basic Education (TABE) pre-test.

¹ Although the complaint investigation originally included a complaint issue involving an alleged violation of 511 IAC 7-27-7(a), this issue was subsequently determined to be a relevant part of the issue cited here.

The TABE is the state approved standardized test for incarcerated youth and is closely aligned to national and state academic standards. The school psychologist and the special education coordinator propose initial IEP goals and short-term objectives and benchmarks for each student based on this baseline information. During the CCC meeting the proposed goals and objectives are reviewed with the parent/legal guardian and the student. Any necessary changes to the IEP are made during the CCC meeting.

4. The Complainant specifically alleges that math and English/language arts goals and short-term objectives are boilerplate for students within an exceptionality area. Upon review, there is nothing to indicate that math and language arts goals for students within an exceptionality area are not individualized. Because most students who enroll at the school at PJCF typically arrive with present levels of performance that are far below grade level, and due to the fact that, for most students who want to obtain a high school diploma or a GED (General Education Development), academic goals and objectives must be written to align with state academic standards to provide effective academic instruction so students can pass either the statewide Graduation Qualifying Exam (GQE) or GED test. To that end, many of the academic goals in mathematics and English/L.A. are word-for-word similar, but are based on the information described in Finding of Fact #3 above. For example, the typical goal for language arts will state: “_____ will raise his language arts performance level by at least one grade level as evidenced by the TABE pre/post test.” Then, depending on what the TABE pre-test results indicate are the student’s weaknesses, the short-term objectives/benchmarks will be selected from a sort of pre-proposed list and plugged into the student’s proposed IEP. For example, there may be ten students with an emotional handicap who all have trouble with fractions and the short-term benchmark for all ten will most likely read: “___ will complete computations with fractions using the four basic operations at least 80% accuracy 90% of the time.”
5. At PJCF, IEPs are stored on to an Internet IEP program. Any DOC employee with a password can access the IEPs and complete educational records of students from PJCF as well as other DOC facilities. To protect the confidentiality of personally identifiable information, PJCF has put in place the following policies and procedures:
 - a. In addition to the computer usage and Internet agreement that all state employees read and sign (and becomes part of an employee’s personnel file), PJCF also has specific duties and responsibilities for each staff person in writing given to each employee. Any employee who violates this agreement is subject to immediate dismissal. Furthermore, PJCF has a new special education policy and procedures manual developed in response to an outside audit in January of 2004, that contains a section that is closely aligned to the requirements of Rule 23 of Article 7;
 - b. The designation of the Assistant Supervisor of Education as the one person responsible to ensure compliance with confidentiality procedures as stated in the PJCF Special Education Procedures Manual; and
 - c. The provision of training to the education staff and any other staff members who are identified as having legal access to student files on the procedures required for ensuring confidentiality of personally identifiable information. The training will be at least annual and the Assistant Supervisor of Education is designated to provide the training. The most recent training, conducted on February 6, 2004, specifically covered confidentiality.

CONCLUSIONS:

1. Findings of Fact #2 through #4 indicate that the school at PJCF did not fail to develop individualized goals and objectives for students within an exceptionality area. Thus, there was no failure to provide FAPE to students at PJCF. Therefore, a violation of 511 IAC 7-18-3 is not found.

2. Finding of Fact #5 indicates that, although any DOC employee with a password can access personally identifiable information contained in the educational records stored on the Internet IEP program of students at other DOC facilities, DOC has established, maintained, and is implementing procedures to protect the confidentiality of personally identifiable information per 511 IAC 7-23-3(a). Therefore, a violation of 511 IAC 7-23-1 is not found.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.